



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4574

by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

430 ILCS 65/8

from Ch. 38, par. 83-8

430 ILCS 66/70

720 ILCS 5/24-4.1

Amends the Firearm Owners Identification Card Act. Provides that the Department of State Police shall suspend for 5 years the Firearm Owner's Identification Card of a person who has been convicted of a third violation of the provision of the Criminal Code of 2012 that makes it an offense for a person who possesses or acquires a firearm and thereafter loses the firearm, or if the firearm is stolen from the person, to fail to report the loss or theft to the local law enforcement agency within 72 hours after obtaining knowledge of the loss or theft. Amends the Firearm Concealed Carry Act. Provides that the Department of State Police shall suspend for 5 years the concealed carry license of a person who has been convicted of a third violation of that Criminal Code of 2012 provision. Amends the Criminal Code of 2012. Provides that a fourth or subsequent violation is a Class 4 felony (rather than a Class A misdemeanor).

LRB098 17532 RLC 52641 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Section 8 as follows:

6 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

7 Sec. 8. Grounds for denial and revocation. The Department
8 of State Police has authority to deny an application for or to
9 revoke and seize a Firearm Owner's Identification Card
10 previously issued under this Act only if the Department finds
11 that the applicant or the person to whom such card was issued
12 is or was at the time of issuance:

13 (a) A person under 21 years of age who has been
14 convicted of a misdemeanor other than a traffic offense or
15 adjudged delinquent;

16 (b) A person under 21 years of age who does not have
17 the written consent of his parent or guardian to acquire
18 and possess firearms and firearm ammunition, or whose
19 parent or guardian has revoked such written consent, or
20 where such parent or guardian does not qualify to have a
21 Firearm Owner's Identification Card;

22 (c) A person convicted of a felony under the laws of
23 this or any other jurisdiction;

1 (d) A person addicted to narcotics;

2 (e) A person who has been a patient of a mental health
3 facility within the past 5 years or a person who has been a
4 patient in a mental health facility more than 5 years ago
5 who has not received the certification required under
6 subsection (u) of this Section. An active law enforcement
7 officer employed by a unit of government who is denied,
8 revoked, or has his or her Firearm Owner's Identification
9 Card seized under this subsection (e) may obtain relief as
10 described in subsection (c-5) of Section 10 of this Act if
11 the officer did not act in a manner threatening to the
12 officer, another person, or the public as determined by the
13 treating clinical psychologist or physician, and the
14 officer seeks mental health treatment;

15 (f) A person whose mental condition is of such a nature
16 that it poses a clear and present danger to the applicant,
17 any other person or persons or the community;

18 (g) A person who is intellectually disabled;

19 (h) A person who intentionally makes a false statement
20 in the Firearm Owner's Identification Card application;

21 (i) An alien who is unlawfully present in the United
22 States under the laws of the United States;

23 (i-5) An alien who has been admitted to the United
24 States under a non-immigrant visa (as that term is defined
25 in Section 101(a)(26) of the Immigration and Nationality
26 Act (8 U.S.C. 1101(a)(26))), except that this subsection

1 (i-5) does not apply to any alien who has been lawfully
2 admitted to the United States under a non-immigrant visa if
3 that alien is:

4 (1) admitted to the United States for lawful
5 hunting or sporting purposes;

6 (2) an official representative of a foreign
7 government who is:

8 (A) accredited to the United States Government
9 or the Government's mission to an international
10 organization having its headquarters in the United
11 States; or

12 (B) en route to or from another country to
13 which that alien is accredited;

14 (3) an official of a foreign government or
15 distinguished foreign visitor who has been so
16 designated by the Department of State;

17 (4) a foreign law enforcement officer of a friendly
18 foreign government entering the United States on
19 official business; or

20 (5) one who has received a waiver from the Attorney
21 General of the United States pursuant to 18 U.S.C.
22 922(y) (3);

23 (j) (Blank);

24 (k) A person who has been convicted within the past 5
25 years of battery, assault, aggravated assault, violation
26 of an order of protection, or a substantially similar

1 offense in another jurisdiction, in which a firearm was
2 used or possessed;

3 (l) A person who has been convicted of domestic
4 battery, aggravated domestic battery, or a substantially
5 similar offense in another jurisdiction committed before,
6 on or after January 1, 2012 (the effective date of Public
7 Act 97-158). If the applicant or person who has been
8 previously issued a Firearm Owner's Identification Card
9 under this Act knowingly and intelligently waives the right
10 to have an offense described in this paragraph (l) tried by
11 a jury, and by guilty plea or otherwise, results in a
12 conviction for an offense in which a domestic relationship
13 is not a required element of the offense but in which a
14 determination of the applicability of 18 U.S.C. 922(g)(9)
15 is made under Section 112A-11.1 of the Code of Criminal
16 Procedure of 1963, an entry by the court of a judgment of
17 conviction for that offense shall be grounds for denying an
18 application for and for revoking and seizing a Firearm
19 Owner's Identification Card previously issued to the
20 person under this Act;

21 (m) (Blank);

22 (n) A person who is prohibited from acquiring or
23 possessing firearms or firearm ammunition by any Illinois
24 State statute or by federal law;

25 (o) A minor subject to a petition filed under Section
26 5-520 of the Juvenile Court Act of 1987 alleging that the

1 minor is a delinquent minor for the commission of an
2 offense that if committed by an adult would be a felony;

3 (p) An adult who had been adjudicated a delinquent
4 minor under the Juvenile Court Act of 1987 for the
5 commission of an offense that if committed by an adult
6 would be a felony;

7 (q) A person who is not a resident of the State of
8 Illinois, except as provided in subsection (a-10) of
9 Section 4;

10 (r) A person who has been adjudicated as a mentally
11 disabled person;

12 (s) A person who has been found to be developmentally
13 disabled;

14 (t) A person involuntarily admitted into a mental
15 health facility; or

16 (u) A person who has had his or her Firearm Owner's
17 Identification Card revoked or denied under subsection (e)
18 of this Section or item (iv) of paragraph (2) of subsection
19 (a) of Section 4 of this Act because he or she was a
20 patient in a mental health facility as provided in ~~item (2)~~
21 ~~of~~ subsection (e) of this Section, shall not be permitted
22 to obtain a Firearm Owner's Identification Card, after the
23 5-year ~~5-year~~ period has lapsed, unless he or she has
24 received a mental health evaluation by a physician,
25 clinical psychologist, or qualified examiner as those
26 terms are defined in the Mental Health and Developmental

1 Disabilities Code, and has received a certification that he
2 or she is not a clear and present danger to himself,
3 herself, or others. The physician, clinical psychologist,
4 or qualified examiner making the certification and his or
5 her employer shall not be held criminally, civilly, or
6 professionally liable for making or not making the
7 certification required under this subsection, except for
8 willful or wanton misconduct. This subsection does not
9 apply to a person whose firearm possession rights have been
10 restored through administrative or judicial action under
11 Section 10 or 11 of this Act. ~~or~~

12 ~~(v)~~ Upon revocation of a person's Firearm Owner's
13 Identification Card, the Department of State Police shall
14 provide notice to the person and the person shall comply with
15 Section 9.5 of this Act.

16 The Department of State Police shall suspend for 5 years
17 the Firearm Owner's Identification Card of a person who has
18 been convicted of a third violation of Section 24-4.1 of the
19 Criminal Code of 2012.

20 (Source: P.A. 97-158, eff. 1-1-12; 97-227, eff. 1-1-12; 97-813,
21 eff. 7-13-12; 97-1131, eff. 1-1-13; 97-1167, eff. 6-1-13;
22 98-63, eff. 7-9-13; 98-508, eff. 8-19-13; revised 9-24-13.)

23 Section 10. The Firearm Concealed Carry Act is amended by
24 changing Section 70 as follows:

1 (430 ILCS 66/70)

2 Sec. 70. Violations.

3 (a) A license issued or renewed under this Act shall be
4 revoked if, at any time, the licensee is found to be ineligible
5 for a license under this Act or the licensee no longer meets
6 the eligibility requirements of the Firearm Owners
7 Identification Card Act.

8 (b) A license shall be suspended if an order of protection,
9 including an emergency order of protection, plenary order of
10 protection, or interim order of protection under Article 112A
11 of the Code of Criminal Procedure of 1963 or under the Illinois
12 Domestic Violence Act of 1986, is issued against a licensee for
13 the duration of the order, or if the Department is made aware
14 of a similar order issued against the licensee in any other
15 jurisdiction. If an order of protection is issued against a
16 licensee, the licensee shall surrender the license, as
17 applicable, to the court at the time the order is entered or to
18 the law enforcement agency or entity serving process at the
19 time the licensee is served the order. The court, law
20 enforcement agency, or entity responsible for serving the order
21 of protection shall notify the Department within 7 days and
22 transmit the license to the Department.

23 (c) A license is invalid upon expiration of the license,
24 unless the licensee has submitted an application to renew the
25 license, and the applicant is otherwise eligible to possess a
26 license under this Act.

1 (d) A licensee shall not carry a concealed firearm while
2 under the influence of alcohol, other drug or drugs,
3 intoxicating compound or combination of compounds, or any
4 combination thereof, under the standards set forth in
5 subsection (a) of Section 11-501 of the Illinois Vehicle Code.

6 A licensee in violation of this subsection (d) shall be
7 guilty of a Class A misdemeanor for a first or second violation
8 and a Class 4 felony for a third violation. The Department may
9 suspend a license for up to 6 months for a second violation and
10 shall permanently revoke a license for a third violation.

11 (e) Except as otherwise provided, a licensee in violation
12 of this Act shall be guilty of a Class B misdemeanor. A second
13 or subsequent violation is a Class A misdemeanor. The
14 Department may suspend a license for up to 6 months for a
15 second violation and shall permanently revoke a license for 3
16 or more violations of Section 65 of this Act. Any person
17 convicted of a violation under this Section shall pay a \$150
18 fee to be deposited into the Mental Health Reporting Fund, plus
19 any applicable court costs or fees.

20 (f) A licensee convicted or found guilty of a violation of
21 this Act who has a valid license and is otherwise eligible to
22 carry a concealed firearm shall only be subject to the
23 penalties under this Section and shall not be subject to the
24 penalties under Section 21-6, paragraph (4), (8), or (10) of
25 subsection (a) of Section 24-1, or subparagraph (A-5) or (B-5)
26 of paragraph (3) of subsection (a) of Section 24-1.6 of the

1 Criminal Code of 2012. Except as otherwise provided in this
2 subsection, nothing in this subsection prohibits the licensee
3 from being subjected to penalties for violations other than
4 those specified in this Act.

5 (g) A licensee whose license is revoked, suspended, or
6 denied shall, within 48 hours of receiving notice of the
7 revocation, suspension, or denial, surrender his or her
8 concealed carry license to the local law enforcement agency
9 where the person resides. The local law enforcement agency
10 shall provide the licensee a receipt and transmit the concealed
11 carry license to the Department of State Police. If the
12 licensee whose concealed carry license has been revoked,
13 suspended, or denied fails to comply with the requirements of
14 this subsection, the law enforcement agency where the person
15 resides may petition the circuit court to issue a warrant to
16 search for and seize the concealed carry license in the
17 possession and under the custody or control of the licensee
18 whose concealed carry license has been revoked, suspended, or
19 denied. The observation of a concealed carry license in the
20 possession of a person whose license has been revoked,
21 suspended, or denied constitutes a sufficient basis for the
22 arrest of that person for violation of this subsection. A
23 violation of this subsection is a Class A misdemeanor.

24 (h) A license issued or renewed under this Act shall be
25 revoked if, at any time, the licensee is found ineligible for a
26 Firearm Owner's Identification Card, or the licensee no longer

1 possesses a valid Firearm Owner's Identification Card. A
2 licensee whose license is revoked under this subsection (h)
3 shall surrender his or her concealed carry license as provided
4 for in subsection (g) of this Section.

5 This subsection shall not apply to a person who has filed
6 an application with the State Police for renewal of a Firearm
7 Owner's Identification Card and who is not otherwise ineligible
8 to obtain a Firearm Owner's Identification Card.

9 (i) The Department of State Police shall suspend for 5
10 years the license of a person who has been convicted of a third
11 violation of Section 24-4.1 of the Criminal Code of 2012.

12 (Source: P.A. 98-63, eff. 7-9-13; revised 11-12-13.)

13 Section 15. The Criminal Code of 2012 is amended by
14 changing Section 24-4.1 as follows:

15 (720 ILCS 5/24-4.1)

16 Sec. 24-4.1. Report of lost or stolen firearms.

17 (a) If a person who possesses a valid Firearm Owner's
18 Identification Card and who possesses or acquires a firearm
19 thereafter loses the firearm, or if the firearm is stolen from
20 the person, the person must report the loss or theft to the
21 local law enforcement agency within 72 hours after obtaining
22 knowledge of the loss or theft.

23 (b) A law enforcement agency having jurisdiction shall take
24 a written report and shall, as soon as practical, enter the

1 firearm's serial number as stolen into the Law Enforcement
2 Agencies Data System (LEADS).

3 (c) A person shall not be in violation of this Section if:

4 (1) the failure to report is due to an act of God, act
5 of war, or inability of a law enforcement agency to receive
6 the report;

7 (2) the person is hospitalized, in a coma, or is
8 otherwise seriously physically or mentally impaired as to
9 prevent the person from reporting; or

10 (3) the person's designee makes a report if the person
11 is unable to make the report.

12 (d) Sentence. A person who violates this Section is guilty
13 of a petty offense for a first violation. A second ~~or~~
14 ~~subsequent~~ violation of this Section is a Class A misdemeanor.
15 A third violation of this Section is a Class A misdemeanor and
16 shall result in a 5 year suspension of the person's Firearm
17 Owner's Identification Card under Section 8 of the Firearm
18 Owners Identification Card Act and license under subsection (i)
19 of Section 70 of the Firearm Concealed Carry Act. A fourth or
20 subsequent violation is a Class 4 felony.

21 (Source: P.A. 98-508, eff. 8-19-13.)